

REMARKS***Response to Restriction Requirement***

Pursuant to the Restriction Requirement stated in the Action of May 20, 2008, Applicant hereby elects the invention of Group I, and provisionally elects the compound of Example 1 as the elected species, with traverse and subject to the following comments. The claims have been amended to comport with this election, and each of claims 1-3 and 5 encompasses the elected invention and the elected species, and withdrawn non-elected method claims 7 and 8 administer the compound as defined in claim 1.

Applicant traverses the restriction requirement with respect to certain of the Examiner's characterizations and reasoning as set out in the paragraph bridging pages 3 and 4 of the Action. While Applicant does not now contest the Examiner's discretion to restrict the claims as has been done, Applicant does not acknowledge, and expressly reserves the right to argue against, the Examiner's characterizations of the compounds and/or references, and the reasoning and conclusions reached in that paragraph, should any such characterization, reasoning and/or conclusion form a part of the rejection of any claim herein.

The restriction requirement is also traversed by reason of the separate and inconsistent "Election of Species" set out on pages 5-7 of the Action. This further Election of Species is formulated around and refers to Groups I-VIII whereas only three Groups, I-III are defined in this Action at pages 2-3. It is presumed that this second election of species was inadvertently carried over from an earlier draft of a restriction requirement, and therefore will not be responded to herein.

Claim Amendments

Claims 4 and 6 have been cancelled as being in a "use" format not generally accepted under U.S. practice and dependent "use" claim 8 has been amended to be in a proper method format. The dependency of method claims 7 and 8 has been updated and these claims have been designated as "withdrawn" as being directed toward a non-elected invention. It is understood that these claims will be rejoined for prosecution in the present application upon allowance of a compound claim with which the method claims are commensurate in compound scope.

Compound claims 1 and 2 have been amended to be in a proper US format and the definitions of R¹ and R² have been amended to be commensurate with the elected invention.

These amendments are being made without disclaimer or prejudice to Applicant's right to prosecute any subject matter deleted thereby in one or more divisional or continuing applications. It should be clear from the above that no new matter has been added by these amendments, and entry thereof is believed to be in order and is respectfully requested.

Following entry of the above amendments, claims 1-3 and 5 are currently pending in this application and claims 7 and 8 are designated as withdrawn pending rejoinder.

Information Disclosure Statement

The Examiner's attention is called to the Information Disclosure Statement being submitted herewith, which includes a form PTO-1449 and a copy of each of the non-US patent/published application documents cited therein. It is respectfully requested that the Examiner consider this Information Disclosure Statement at the time that this application is taken up for a first Action on the merits.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Director is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully Submitted,
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